

DEVELOPMENT CONTROL (NORTH SUNDERLAND) SUB-COMMITTEE

AGENDA

**Meeting to be held in Committee Room No. 2 on
Wednesday, 15th June, 2016 at 4.45 p.m.**

ITEM		PAGE
1.	Receipt of Declarations of Interest (if any)	
2.	Apologies for Absence	
3.	Applications made under the Town and Country Planning Acts and Regulations made thereunder	1
	Report of the Executive Director of Commercial Development (copy herewith).	

E. WAUGH,
Head of Law and Governance.

Civic Centre,
SUNDERLAND.

7th June, 2016

Development Control North Sub-Committee

15th June 2016

REPORT ON APPLICATIONS

REPORT BY THE EXECUTIVE DIRECTOR OF COMMERCIAL DEVELOPMENT

PURPOSE OF REPORT

This report includes recommendations on all applications other than those that are delegated to the Executive Director of Commercial Development for determination. Further relevant information on some of these applications may be received and in these circumstances either a supplementary report will be circulated a few days before the meeting or if appropriate a report will be circulated at the meeting.

LIST OF APPLICATIONS

Applications for the following sites are included in this report.

1. 15/02544/FUL
Land To South Of North Hylton Road And North Of Riverbank Road

COMMITTEE ROLE

The Sub Committee has full delegated powers to determine applications on this list. Members of the Council who have queries or observations on any application should, in advance of the above date, contact the Sub Committee Chairman or the Development Control Manager (0191 561 8755) or email dc@sunderland.gov.uk .

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Commercial Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Alison Fellows

Executive Director of Commercial Development

1.

North
Sunderland

Reference No.: 15/02544/FUL Full Application

Proposal: Erection of new food store including access, car park and associated works

Location: Land To South Of North Hylton Road And North Of Riverbank Road

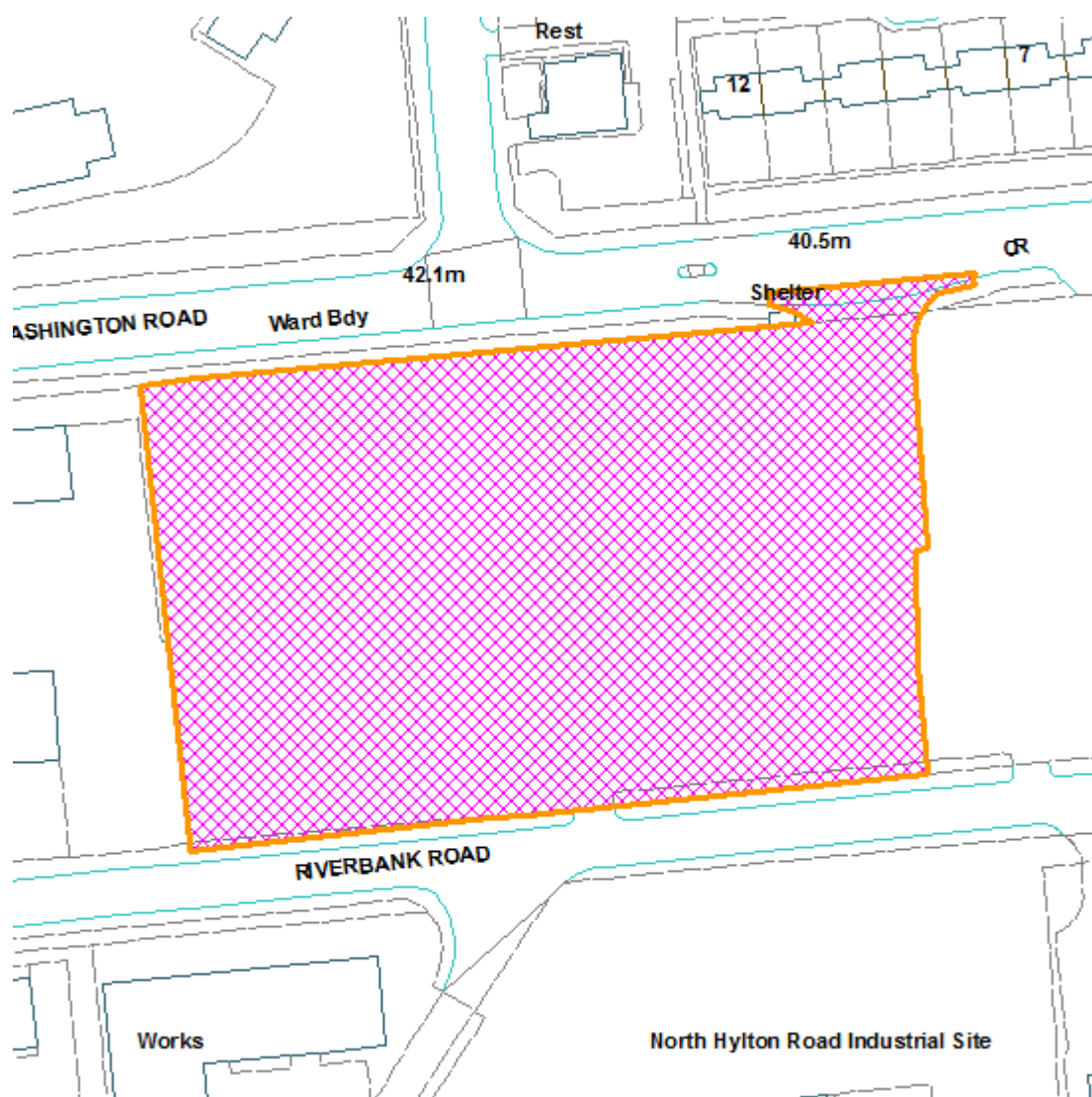
Ward: Castle

Applicant: Lidl UK GmbH

Date Valid: 7 January 2016

Target Date: 7 April 2016

Location Plan



PROPOSAL:

Site Description

The application site is a vacant plot of approximately 0.9 hectares situated within the North Hylton Road employment area on the south side of North Hylton Road and to the north of Riverbank Road from which it is accessed. The site has been cleared and is in a state of disrepair, comprising predominantly of hardstanding and remnants of former buildings with areas of overgrown planting, having previously accommodated an Arriva Ford dealership, and is bordered by steel palisade fencing. The site is set below North Hylton Road and has a gradual north-south downward gradient, owing to the wider gradient down from North Hylton Road to the River Wear.

A hand car wash and single-storey car sales building are situated to the east beyond a further vacant plot accessed from North Hylton Road, the latter of which lies on the corner with Castletown Way which links North Hylton Road and the Wessington Way section of the A1231. A driving test centre and plant and tool hire business are located to the west and a number of industrial buildings are situated on the south side of Riverbank Road. Bus stops are situated adjacent to the site on North Hylton Road and on the opposite side of this road are Northern Saints Primary School, a funeral directors and a row of two-storey semi-detached dwellings which back onto the site. A substantial Sainsbury's foodstore is situated some 200m away to the southeast on the corner of Castletown Way and Wessington Way where a new bridge over the River Wear is currently under construction.

Proposal

Full planning permission is sought for the erection of a foodstore, which falls within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended), and associated works including the provision of a car park, accesses and landscaping.

Proposed foodstore would have a gross external floor area of 2,593sq.m and a gross internal floor area of 2,497sq.m with a net sales area of 1,424sq.m, of which 80% (1,139sq.m) would be reserved for the sale of convenience good sales and 20% (285sq.m) for a changing range of comparison goods. The building would incorporate 5no. main shopping aisles, a bakery, storage areas and w.c. facilities and staff welfare would be accommodated in the first floor to be provided in the northern section of the building.

The proposed building would be positioned some 35.5m from the northern boundary onto North Hylton Road and approximately 9m from southern boundary onto Riverbank Road. The foodstore building would be of contemporary design incorporating a shallow mono-pitched roof comprising heights of 7576mm to its north elevation and 4867mm to its south elevation measured from the east elevation, which varies by virtue of a step in the eaves and the variation in site levels. The building would be finished predominantly in render and cladding incorporating louvres along its north-facing frontage, its east-facing elevation would be predominantly glazed and this glazing element would continue around the splayed northeast corner of the building where the customer entrance/exit would be located along part of the north elevation. A service entrance and bay would be provided to the south and condensers would be provided to the southwest.

A total of 135no. car parking spaces are proposed, which would include the provision of 8no. disabled spaces, 4no. family and child spaces and 2no. electrical vehicle charging points in addition to cycle storage for up to 10no. bicycles. Customer access to be taken off North Hylton Road, including a separate dedicated pedestrian link, and service access would be afforded via Riverbank Road. The access roads within the site would be constructed of bitmac tarmac, the car parking spaces and trolley bays would incorporate permeable block paving, the pedestrian

routes within the site would be predominantly concrete and soft landscaping would be provided around the inner periphery of the site.

The proposed means of boundary treatment comprises 500mm high timber knee rail fencing to the northern, eastern and southern boundaries, 1.2m high metal railings on a retaining wall along the northern and part of the southern boundary and 2m high grey paladin fencing along the western and remainder of the southern boundary.

Planning History

The application site comprises the western part of a larger site, bounded by Washington Road, Castletown Way and Riverbank Road, that is subject to an extant planning consent (ref. 11/00288/FUL) which was granted on 27 October 2011 for what is described as a 'new local centre development comprising foodstore (Class A1), retail units (Class A1), commercial units (Class A1 to A5), offices/non-residential institutions (Class B1a/D1) and restaurant (Class A3/A5)'.

A subsequent application (ref. 12/02920/VAR), which sought to amend condition 2 of the original permission referred to above so as to reduce the size of the foodstore element of the development and amend elevations, was granted on 01 March 2013. A further variation (ref. 14/02596/VAR) granted consent on 10 February 2015 to remove conditions 8 (BREEAM) and 14 (renewable energy) of planning permission 12/02920/VAR. The most recent permission of 16 November 2015 (ref. 15/01991/VAR) varied condition 17 of planning permission 12/02920/VAR to allow for the remediation strategy to be approved prior to occupation, rather than prior to the commencement, of the development.

The LPA has previously been supplied with photographic evidence of works having taken place on site pursuant to the development pertaining to the aforementioned consents and is therefore satisfied that planning permission 11/00288/FUL, together with all subsequent variations of this consent, have been lawfully commenced and each of these consents therefore remain extant.

Supporting Documentation

This application is supported by the following documentation:

- Planning and Retail Statement
- Design and Access Statement
- Statement of Community Involvement
- Phase I Desk Study Report
- Phase II Geo Environmental Report
- Ground Investigation (by CC Geotechnical Ltd)
- Flood Risk Assessment
- Drainage Philosophy
- Extended Phase 1 Habitat Survey Report
- Landscape Plan
- Transport Assessment
- Travel Plan
- Noise Assessment
- Lighting Assessment (including Lighting Plan)
- Rapleys' letter to the Council and enclosure dated 31 March 2016 including Castletown Local Centre Health Check

TYPE OF PUBLICITY:

Press Notice Advertised
Site Notice Posted
Neighbour Notifications

CONSULTEES:

Castle - Ward Councillor Consultation
Flood And Coastal Group Engineer
Environmental Health
Network Management
Northumbrian Water
Natural England

Final Date for Receipt of Representations: 26.02.2016

REPRESENTATIONS:

Responses to Publicity

This application has been given notification by means of site and press notices and letters to neighbouring properties and no representations have been received.

External Consultees

Nexus provided details on the specification and cost of new bus shelters which would be needed on either side of North Hylton Road; this would be dealt with through the relevant consent requirements under the Highways Act 1980.

Northumbrian Water (NWL) advised that insufficient detail has been provided of the proposed management of foul and surface water in order to allow NWL to assess their capacity to treat flows from the development and therefore recommended the imposition of a condition requiring the submission of such details.

Internal Consultees

Environmental Health inspected the submitted noise and lighting assessments and land contamination reports and confirmed its satisfaction with their conclusions that there would be no significant adverse impacts, as elaborated upon in the relevant sections of this report to the Sub-Committee.

The Flood and Coastal Group Engineer initially objected on the basis of a lack of information and an insufficient reduction in surface water run off rates and subsequently withdrew this rejection upon agreement of an appropriate run off rate, as elaborated upon in the Flood Risk and Drainage section of this report.

Natural Heritage reviewed the submitted Extended Phase 1 Habitat Report and Landscape Detail and advised that the ecological assessment is appropriate and provides the necessary mitigation and enhancement measures to enable the development to proceed as proposed.

Network Management confirmed that the proposed level of parking is appropriate for the development and set out the requirement to obtain separate consents under the Highways Act

1980 in respect of works within the highway, pedestrian crossing points on North Hylton Road and the relocation of the adjacent bus lay-by (which would also require the agreement of Nexus).

In addition, the LPA has commissioned HollisVincent Planning and Development Consultants to examine the submission who have provided a thorough report on the fall back position and retail implications of the proposal, the contents of which are elaborated upon subsequently.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B2 Scale, massing layout and setting of new developments
CN19 Development affecting designated / proposed SAC's, SPAs and RAMSAR Sites
CN22 Developments affecting protected wildlife species and habitats
EC4 Retention and improvement of existing business and industrial land
EN1 Improvement of the environment
EN5 Protecting sensitive areas from new noise/vibration generating developments
EN11 Restrictions upon new development or intensified use of land liable to flooding
EN12 Conflicts between new development and flood risk / water resources
EN14 Development on unstable or contaminated land or land at risk from landfill/mine gas
NA1 Retention and improvement of existing industrial area
R2 Taking account of spare infrastructure / reduced travel / vacant & derelict land
S1 Provision of enhanced shopping service, including local provision, based on existing centres.
S2 Encouraging proposals which will enhance / regenerate defined existing centres.
S3 Support to other existing centres, local groups and small shops, including new provision
T8 The needs of pedestrians will be given a high priority throughout the city.
T9 Specific provision will be made for cyclists on existing/new roads and off road
T10 Protect footpaths; identify new ones & adapt some as multi-user routes
T14 Accessibility of new developments, need to avoid congestion and safety problems arising
T22 Parking standards in new developments

COMMENTS:

Paragraphs 2, 11, 12, 196 and 210 of the National Planning Policy Framework (NPPF) emphasise that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, whilst paragraph 13 confirms that the NPPF is a material consideration in planning decisions.

The NPPF sets out a series of 12 'core planning principles' which underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development.

Particularly relevant in this case is the principle that the planning system should always seek to proactively drive and support sustainable economic development, with every effort made to objectively identify and then meet the housing, business and other development needs of an area and respond positively to wider opportunities for growth, taking into account market signals. The planning system should also encourage the effective use of land by re-using land that has been previously developed.

In addition, the core principles also require the planning system to secure high standards of design and amenity, to take full account of flood risk and coastal change and to contribute towards the conservation and enhancement of the natural environment. More specific guidance of the NPPF is referred to, where relevant, throughout this report.

The relevant guidance of the NPPF detailed above feeds into policies B2, CN19/22, EC4, EN1/5/11/12/14, NA1.2, R2, S1/2/3 and T8/9/10/14/22 of the City Council's adopted Unitary Development Plan (UDP), which are considered to be pertinent to the determination of this application with varying degrees of weight. These policies have been 'saved' following a direction by the Secretary of State and, with regard to paragraph 215 of the NPPF, which dictates that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. As such, they are considered to remain relevant and material to the determination of this planning application, although where there is any specific point of conflict with the NPPF, this will be highlighted.

The main issues to consider in the assessment of this application are as follows:

- Fall-back position
- Land use allocation
- Retail Policy (Including Sequential and Impact Tests)
- Residential and Visual Amenity
- Parking and Highway/Pedestrian Safety
- Flood Risk and Drainage
- Ground Conditions and Contamination
- Ecology and Biodiversity

Fall-back Position

As set out in the Planning History section of this report, the current application site comprises the western part of a larger site which is subject to extant planning consents for a 'new local centre development comprising foodstore (Class A1), retail units (Class A1), commercial units (Class A1 to A5), offices/non-residential institutions (Class B1a/D1) and restaurant (Class A3/A5)'. The maximum total gross floor space of this development is 4,987sq.m, of which a retail area of no more than 2,626sq.m is permitted. Most pertinently, these consents allow for the erection of a foodstore on the eastern section of the site with a gross floor area of 1,618sqm (which was reduced to 1549sq.m by 12/02920/VAR) and a net sales area of up to 1,313sq.m.

In *Snowden v Secretary of State for the Environment and the City of Bradford Metropolitan Council* (July 1980), the 'fall-back' position of the applicants is defined as being '¿ what they could have done without any change in their planning position¿' and it was held in *Brentwood Borough Council v Secretary of State for the Environment and Gray* (March 1996) that, in order for a 'fall-back position' to be a material consideration, the prospects of it taking place had to be 'real' and not merely 'theoretical'.

In addition, it was held in *R (on the application of) Zurich Assurance Limited and North Lincolnshire Council and Simons Developments Limited* (December 2012) that 'The prospect of the fall-back position does not have to be probable, or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fall-back position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration¿ Weight is, then, a matter for the planning committee'. This judgement reflects an earlier judgment of the Court of Appeal in *Samuel Smith Old Brewery (Tadcaster)* and the Secretary of State for Communities and Local Government (March 2009), in which it is held that 'in order for a prospect [the fall-back] to be a real prospect [and therefore a material consideration], it does not have to be probable or likely: a possibility will suffice'.

A common characteristic of the body of case law, where weight is given to fall-backs, is the fact that the fall-back would have broadly similar planning implications, or cause greater harm, than the current development proposal.

Such case law sets out that there is a two stage approach in considering the relevance of potential fall-backs and the weight to be given to them; firstly, whether the fall-back is 'real', therefore a material consideration, or merely 'theoretical', and secondly the weight to be given to any such fall-back, reflective of the likelihood of it occurring and/or the level of planning harm that would arise if were implemented compared to the current proposal.

In terms of the likelihood of the aforementioned extant consents coming forward, their commencement entailed the digging of trenches which would accommodate foundations, but no further construction works have been carried out on any of these units and it is unlikely, as agreed by the applicant, that the foodstore component of these consents is of a size and format to attract interest from national foodstore operators. However, the 1,313sq.m floor area of the approved foodstore is a maximum quantity, so a smaller retail unit could be provided utilising the extant consents. Whilst such a size of unit may not be ideal in its approved form, it is considered that there is at least a 'real possibility' that the approved foodstore could be occupied by a discount foodstore operator such as Lidl.

For such reasons, within the context of the aforementioned thresholds set by the Courts, it is accepted that there is at least an 'outside chance' that the land owner may seek to build out the local centre permission, given a steadily improving economy. Therefore, the 'fall-back' position for the wider site established by planning permission 11/00288/FUL, and its subsequent variations, is 'real', and therefore, a material consideration.

In terms of the degree of weight which should be given to the extant consents in assessing the current proposal, given the quantum of floor space of the extant consent against that currently proposed, it is apparent that full implementation of the original permission would have broadly comparable, or worse, trading impacts on nearby district and local centres. Therefore, considerable weight should be given to planning permission 11/00288/FUL and its subsequent variations.

However, careful consideration must also be given to the likely development of the area of land between the eastern boundary of the current application site and Castletown Way. Whilst it is considered that there is a 'real' fall-back position of a foodstore being erected on this adjacent site, should Members be minded to approve the current application it is not considered that a second foodstore would be constructed for the following reasons:

- The UK's four leading foodstore operators (Tesco, Sainsbury's, Asda and Morrisons), which all have representation in north Sunderland and/or Washington, have substantially cut back on their development of new medium and large sized supermarkets;
- The approved foodstore unit is far too big for the Tesco Express or Sainsbury's Local formats and Morrisons has abandoned its Local M format;
- The socio-economic profile of the catchment area of the North Hylton site does not fit the profile desired by Waitrose;
- Aldi is represented to the west of the application site by the store at Hylton Riverside Retail Park and to the east by the store at Carley Hill;
- Netto's website confirms that it is not looking for sites in the North East Region; and

- The only other likely candidate, the Co-op, is already represented at Castletown and Hylton Castle.

Therefore, it is considered that there is a 'real' fall-back position of the extant consent being implemented, in its own right, which should be given significant weight, however the possibility of two foodstores being provided alongside one another is considered to be merely a 'theoretical' possibility which should therefore be given limited weight. Given that this is not considered to be a 'real' fall-back position, it is not considered that it would be necessary to make a legal agreement to safeguard against a second foodstore being developed.

Land Use

Policies EC4 of the adopted Unitary Development Plan (UDP) advises that existing business and industrial land amounting to some 1,215 hectares be retained and improved for a range of uses. These are defined on a site specific basis, but in general, this policy advises that acceptable primary uses of allocated employment land are offices, research and development, light industry (Use Class B1), general industry (Use Class B2) and warehouses and storage (Use Class B8). Policy NA1.2 of the UDP expands upon policy EC4 and is specific to the 31.95 hectare North Hylton Road employment site in which the current application site is located, which sets out offices, research, light and general industry, car sales and servicing, storage and distribution (Uses falling within Use Classes B1, B2 and B8, with the exception of car sales which is a Sui Generis use) as acceptable. Proposals for other uses are to be considered on their individual merits.

The proposed retail unit falls within Use Class A1, which is not listed as an acceptable use by the UDP policies set out above, so the proposal represents a departure from the land-use allocation of the UDP and has been publicised accordingly.

However, paragraph 22 of the NPPF recommends the regular review of land use allocations and discourages the long-term protection of employment land where there is no reasonable prospect of it being used for such purposes. In such cases, applications for alternative land uses should be treated on their merits, having given regard to market signals and the relative need for different land uses to support sustainable local communities.

To this regard, the Council has recently commissioned an Employment Land Review (dated 09.03.2016) which is to form part of the evidence base of the emerging Local Plan and was approved by Cabinet in March 2016. This review indicates an expected shortfall of between 2.5 and 3.5 hectares of employment land within the Sunderland North sub-area over the period of the emerging Local Plan. Given that the north area is very urbanised and tightly constrained by Green Belt to the north, the river to the south and the coast to the east, there are very few opportunities available to meet this shortfall. However, the Employment Land Review recognises that the Sunderland North and South sub-areas are seen as one market area by the commercial sector and, therefore, any shortfall in Sunderland North could realistically be addressed by the oversupply of employment land which the Review has identified in the Sunderland South sub-area.

In addition, the site has been vacant for a significant period of time and it is not considered that the proposed development would be likely to compromise the operation of the wider employment site. Furthermore, as set out above, there is an extant 'real' fall-back position for a larger development than that currently proposed which also does not accord with the UDP land-use allocation.

Retail Policy

As set out above, the Council has commissioned Hollisvincent Planning and Development Consultants to carry out an appraisal of the retail aspects of the proposal. A comprehensive report has been provided and its findings are accepted and have formed the basis of the assessment of this section and the 'Fall-back Position' section above.

Paragraphs 23 of the NPPF requires any policies drawn up by Local Planning Authorities to foster and support competitive town-centre environments.

Paragraph 24 sets out that a 'sequential test' must be applied to planning applications for main town centre uses (which includes retail development) that are not to be located within an existing centre and are not in accordance with an up-to-date Local Plan. Applications for such uses should firstly be located in town centres, then in edge-of-centre locations and, only if suitable sites are not available, should out-of-centre sites be considered. When considering edge- and out-of-centre sites, preference should be given to accessible sites that are well-connected to the town centre whilst applicants and Local Planning Authorities are advised to demonstrate flexibility on issues such as format and scale.

Paragraph 26 sets out the impact tests for applications for town-centre development located in out-of-centre locations and which is not in accordance with an up-to-date Local Plan and where a gross external floorspace of 2500sq. m (or a locally set threshold) would be created.

Paragraph 27 of the NPPF goes on to advise that 'where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors (i.e. in paragraph 26), it should be refused'. However, recent Court decisions (such as Zurich Assurance, as alluded to above) suggest that paragraph 27 is not necessarily determinative, if material considerations indicate otherwise.

On a local level, policies S1 to S3 of the UDP seek to sustain and enhance the City's network of existing centres and incorporate the sequential test to the consideration of development proposals. Policy S1 states that, where appropriate, new town centre development will be based on existing centres and that development elsewhere should result from the application of the sequential test, be in accordance with other policies of the UDP and complement existing facilities. UDP policy S2 sets out that favourable consideration will be given to proposals which will sustain and enhance the vitality, viability and appropriate diversification of existing centres whilst policy S3 states that the Council will support the retention of existing shopping centres, local groups and small shops catering for everyday needs. However, these are strategic and aspirational policies which do not address the up-to-date development management tests for retail development which is located outside town centres, as set out in paragraphs 26 and 27 of the NPPF, so it is considered that more weight be given to the up-to-date tests in the NPPF.

- **Sequential Test**

In applying the sequential approach, NPPF paragraph 24 requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale. However, in contrast to the provisions of policy EC 15.1d of the former PPS4, paragraph 24 makes no specific mention of the words 'car parking' and 'disaggregation' in applying the flexibility component of the test.

Paragraph ID: 2b-011 of the National Planning Policy Guidance (the "NPPG") states that the 'use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.' The Guidance states, however, that there must be a robust justification if a

location-specific requirement is being advanced, and that land ownership does not provide such a justification. In addition, Paragraph ID: 2b-012 requires Local Planning Authorities to recognise that town centre locations can be more expensive and complicated than building elsewhere, so that they should be 'realistic and flexible in terms of their expectations'.

Recent appeal cases suggest that the search for suitable and available sites includes consideration of deliverability/viability and that they must be currently available. In addition, the *Tesco Stores Ltd. v Dundee City Council* Supreme Court judgment of 21 March 2012 established that, for a site to be 'suitable' for the purposes of paragraph 24, the potential opportunity at a sequentially preferable location must be able to provide for a development that will serve a similar function and achieve similar objectives to the development being sought by the application proposal. This is echoed by the Rushden Lakes call-in Inquiry (ref: APP/G2815/V/12/2190175) where it is noted that 'The sequential test relates entirely to the application proposal and whether it can be accommodated on an actual alternative site (e.g. a town centre site)'.

The application site is situated in an out-of-centre location (as defined by annex 2 of the NPPF) and the nearest local centre are in Southwick which is situated approximately 2km away to the east and Castletown which is situated some 1.5km to the southwest.

The submitted Planning and Retail Statement considers the availability of sites in or on the edge of Southwick local centre (a separate letter sets out the applicant's search of Castletown) and sets out the following search criteria:

- the site should be capable of accommodating a store in excess of 2,500sq.m gross, so as to allow for the full product range on offer;
- the site must allow for the safe manoeuvring of customer and delivery vehicles;
- the site must be in a prominent location, with ability to attract passing trade;
- the site must be easily accessible by a choice of means of transport;
- the site must provide for adjacent service level car parking, so as to allow customers to easily transfer their goods to their vehicles;
- the site must allow for the provision of a dedicated service area to the rear of the store, with an ability to accommodate HGVs; and
- the store itself must be single storey with an open and unrestricted sales floor area which is level.

The applicant concludes that there are no available sites within the search area which are available and suitable to meet the needs of the proposed development. It is accepted that the applicant has identified the two most relevant opportunities, namely the former Southwick Social Club and the former Southwick Community Primary School site. However, the former is too small, at 0.2 hectares, and is unsuitable for Lidl's business model, even having applied the appropriate degree of flexibility, and is not known to be currently on the market whilst the latter is not currently being marketed, so cannot be considered to be currently available. It is apparent that all of the existing vacant buildings within Southwick Green Local Centre are far too small to represent suitable opportunities.

In respect of Castletown, which is not identified as a local centre by the UDP but is by the draft Core Strategy (which can be afforded only limited weight), the only potential suitable site is the

former Morrisons store at Castle View, however the nearest entrance to this site is 320m away from the defined (Peacock and Smith document) edge of the Castletown Local Centre, so constitutes an 'out-of-centre' location. When comparing edge and out of centre sites, Paragraph 24 of the NPPF requires that '¿preference should be given to accessible sites that are well connected to the Town Centre'. In this instance, it is considered that there is little to choose between the application site and the former Morrisons site in terms of accessibility, with both sites being easily accessible by car and by bus. In addition, the former Morrisons premises are too small, given its net sales area of approximately 800sq.m, whereas the application store has a sales area 1,424sq.m.

On this basis, in accordance with the advice provided by Hollisvincent, it is considered that the proposal complies with the requirements of the sequential test set out by paragraph 24 of the NPPF given that none of the sites which are currently available within or on the edge of Southwick or Castletown are realistically suitable for the proposed development, having applied the appropriate degree of flexibility in relation to format and scale.

- **Impact Tests**

Paragraph 26 of the NPPF sets out the impact tests for applications for retail, leisure and office development that are located outside town centres and which are not in accordance with an up-to-date Local Plan. For applications of over 2,500sq.m, or over a locally set threshold, these tests require an assessment of:

- a) 'the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.'

Paragraph ID: 2b-016 of the NPPG confirms that the floorspace threshold cited in 26 of the NPPF should be measured on the basis of Gross External Area; given that a building of 2,593sq.m is proposed, the application must address the two impact tests.

The applicant incorrectly asserts that the proposal falls below the NPPF threshold for requiring an assessment, quoting the Gross Internal Area and the Net Sales Area of the proposed development rather than the Gross External Area, but has provided a 'proportionate' retail impact assessment to address the above tests.

As per the recommendation of Hollisvincent, the applicant's conclusion is accepted that there are no known investments in Southwick Green Local Centre for which the proposal would have a 'significant adverse' impact, particularly taking into account the 'fall-back' position established by planning permission 11/00288/FUL and its variations, which would have a broadly similar, or worse, impact on investment than the current proposal.

However, in respect of the second test as set out by NPPF paragraph 26, the tables provided in the applicant's Planning and Retail Statement do not provide an assessment of likely impact on the trading levels in Southwick Green and Castletown nor an adequate basis for assessment. Therefore, the assessment provided by Hollisvincent is used to inform the consideration of this impact.

In making such an assessment, consideration must be given to the fall-back position set out previously in this report and, to this end, Hollisvincent has prepared the below table setting out four potential scenarios based on the extant permission and current proposal.

Table 6.1 Impact Scenarios Considered

Scenario	Description	Application References	Turnover Estimates £M	Real or Theoretical
1	Lidl application on its own, based on a sales density of £6,995 per sq. m.	15/02544/FUL	9.96	Real
2	Original fall-back planning permission, assuming that Lidl occupies Unit A, and with a non food Sales Density for Units B to G of £4,000 per sq. m.	11/00288/FUL	14.23	Real
3	Lidl application + Aldi foodstore in Unit A with a Sales Density of £10,704 per sq. m.	15/02544/FUL + Unit A Food	23.69	Theoretical
4	Lidl application + non food Units on the site of Unit A, assuming an aggregate non food sales area of 1,000 sq. m, with a Sales Density of £4,000 per sq. m.	15/02544/FUL + non food and A3/A5 Uses on site of Unit A	13.96	Real

This table sets out that the current proposal, on its own, would have a lesser impact than the extant planning permission and, whilst the impact of the currently proposed foodstore together with another foodstore on the adjacent site would be significantly higher (Scenario 3), for the reasons set out about this is considered to be so unlikely that it does not constitute a 'real' fall-back position. In reality, Hollisvincent consider that the adjacent site would be most likely to be developed for non-food development and for Class A3, A5 and B1a/D1 uses (Scenario 4) and, in such an event, the residual impact would be almost identical to that of the extant consent. On this basis, consideration is given to likely impacts on Southwick and Castletown in turn.

1. Southwick

Surveys commissioned by the Council show an increase in the number of vacant units in Southwick Green Local Centre from 5no. in 2014 to 12no. in February/March 2016. Such a decline may be a reflection, at least in part, of the competition posed by the Aldi store at Carley Hill, which opened in December 2014, together with the competitive effects of the Sainsbury's store at Wessington Way, which opened in March 2013. However, only one of the new vacancies has arisen from the closure of the convenience sector store (Booze Buster) and that the former Bargain Booze premises are now occupied by a convenience trader (Best One). It is therefore difficult to identify with confidence the core cause of the decline in the health of Southwick Green, however the Hollisvincent assessment of the current application is mindful of this deterioration in the health of this Centre.

The convenience stores in Southwick Green which are most likely to suffer some loss of trade as a result of the proposal are the Londis, Premier, Lifestyle Express and Best One stores. It is accepted, however, that these are small-scale stores that focus on the day to day needs of residents within the immediate surrounding area and their range of goods differs substantially from that of Lidl. It is also agreed that Churchill Butcher is unlikely to be affected, since Lidl stores do not provide a fresh meat counter, and that the Greengrocers Thoburn and the Korner Deli are similarly unlikely to be materially affected whilst Heron Foods and Iceland are specialist frozen food retailers. Consequently, any impact on the convenience sector in Southwick Green Local Centre arising from the current Lidl application proposal on its own is likely to be limited and certainly not 'significantly adverse'.

So far as the comparison sector is concerned, representation in Southwick Green includes two card shops, a chemist, two computer shops, two pet stores, a two furnisher retailers, a blinds

shop, two baby clothes retailers, a florist and opticians and B&M Bargains. However, the applicant's assessment is accepted that any comparison impact from the application store is likely to be negligible because Lidl focuses on household cleaning products, health and beauty products and non-food specials; the latter are provided on the basis of 'when it's gone, it's gone' and the specials are constantly changing. The comparison retailer likely to be most affected is B&M bargains, however it is not envisaged that the impact on Southwick Green's comparison goods sector arising from the Lidl application on its own will be 'significantly adverse'.

Furthermore, it is accepted that the impact on Southwick Green's convenience and comparison goods sectors of extant permission 11/00288/FUL, and its variations, is likely to be broadly the same or worse than that associated with the current application proposal; the same applies in respect of Scenario 4, which would see non-food and A3/A5 Uses on the adjacent site.

Based on the detailed knowledge of Hollisvincent on the shopping patterns in North Sunderland and the evidence emerging in the Sunderland Retail Needs Assessment that it is preparing for the Council, it concludes, on balance, that the trading impacts associated with Scenarios 2 and 4 are not likely to be 'significantly adverse' for the purposes of the tests set out in paragraph 26 of the NPPF. Nevertheless, the trading impacts will probably not be far below an acceptable level, so Hollisvincent recommend that the Council appraise very carefully any further retail development proposals in this area; indeed, the trade impacts associated with Scenario 3 (two foodstores) would be likely to be 'significantly adverse'.

2. Castletown

The convenience stores in Castletown that are most likely to suffer a loss of trade as a result of the current proposal are the Premier store and the Co-op. However, it is accepted that these two stores focus on the day to day needs of the residents within the immediate surrounding area and that the range of goods sold within these stores also differs from that sold in Lidl. As a consequence, it is considered that impact on the convenience sector in Castletown will be limited and certainly not 'significantly adverse'. Furthermore, as is the case in relation to Southwick Green, it is considered that the convenience sector impact of the fall-back planning permission 11/00288/FUL would be broadly comparable of worse than that associated with the current application proposal.

In respect of the comparison sector in Castletown, existing provision is limited to a chemist and a florist, and neither of these is likely to suffer a 'significant adverse' impact as a result of the Lidl application proposal. Furthermore, as was the case in respect of Southwick Green Local Centre, it is considered that the likely trading impacts of Scenarios 2 and 4 of the table above on Castletown will also be below the 'significantly adverse' level.

Residential and Visual Amenity

One of the core principles of the National Planning Policy Framework (NPPF), as set out by paragraph 17, is that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'. Paragraphs 56 and 57 expand upon this principle, highlighting the importance Central Government place on the design of the built environment, including individual buildings, public and private spaces and wider area development schemes. Paragraph 64 of the NPPF goes on to state that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

UDP policy B2 reflects the above, stating that the scale, massing, layout and/or setting of new developments should respect and enhance the best qualities of nearby properties and the locality

whilst large scale schemes, creating their own individual character, should relate harmoniously to adjoining areas'. In addition, UDP policy EN5 requires the submission of a noise assessment, incorporating any necessary mitigation measures, where a proposal is likely to generate significant noise; where excessive noise cannot be mitigated, planning permission should normally be refused.

As set out above, the nearest residential properties to the application site lie directly opposite to the north; the curtilage of the nearest property, no. 12 Raleigh Square, is situated some 25m from the application site and 66m from the proposed foodstore building. These properties are situated on the opposite side of North Hylton Road, a particularly busy high-speed road which serves numerous bus routes, and the site is located within an active industrial area, so ambient noise levels are typically high during daytime hours. Operating hours of 07:00-22:00 on Mondays to Saturdays and 10:00 and 16:00 on Sundays and Bank Holidays are proposed, which are considered to be reasonable to ensure that there would be no undue disturbance caused during evenings when ambient noise levels are lower and, in any event, retail units do not typically generate an excessive level of noise. In addition, construction hours, together with the generation of dust and vibration, can be controlled by the imposition of an appropriate condition requiring the submission of scheme of working, should Members be minded to grant planning permission, in order to limit noise and disturbance during the construction phase.

Noise and lighting assessments have been submitted with the application which have been inspected by the Council's Environmental Health section. The former concludes that the proposed development is unlikely to exceed background noise levels and the modelling plans submitted with the latter indicates that the illumination of the development, including the external lighting of the car park, would not notably spill outside of the curtilage of the site and certainly not to the neighbouring dwellings. Such conclusions are accepted and, as such, it is not considered that any noise sensitive receptors would be affected by the proposal.

In terms of design, scale, siting and consequent visual impact, the design rationale of the proposed foodstore building has been informed by Lidl's operational requirements, so the functionality of the proposed building, to a degree, takes precedent over its appearance. In particular, the northern elevation of the building contains a limited amount of fenestration, which is limited to its eastern extent where the main entrance is situated.

However, the building would be situated some 41m from the northern boundary of the site onto North Hylton Road, is limited in height and would be set below the level of this Road, so would not appear prominent when viewed from the busiest adjacent road or from the nearest residential properties. Whilst the rear of the building would be entirely functional, providing the service area, and would be situated within close proximity to Riverbank Road, this part of the road serves the wider industrial estate and, within this context, the appearance of the building from this aspect is considered to be acceptable. In addition, the scale of proposed building is considered to be appropriate relative to its surroundings and sits comfortably with the other existing buildings in the immediate vicinity.

As previously noted, the proposed new store is of a contemporary design and it is considered that its appearance and external finishes are appropriate for a site of this nature. The east-facing elevation containing the main public entrance is of the greatest visual interest, containing areas of glazing which, in combination with the shallow mono-pitched roof and use of light-coloured panelling to other elevations, will give the building a modern, lightweight appearance. The proposed landscaping scheme is also considered to be appropriate for a site of this nature and will serve to satisfactorily complement the new development and break-up the hard surfacing of the car park and accesses.

Parking and Highway/Pedestrian Safety

Paragraph 32 of the NPPF states that, 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe' whilst paragraph 75 states that, 'planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.'

UDP policies T8, T9 and T10 promote the facilitation of mobility for pedestrians and cyclists whilst upgrading and identifying new paths and multi-user routes. Policy T14 aims to ensure that new developments are easily accessible to both vehicles and pedestrians, should not cause traffic problems, should make appropriate provision for safe access by vehicles and pedestrians and indicate how parking requirements will be met whilst policy T22 seeks to ensure that the necessary levels of car parking provision will be provided.

As set out above, the Council's Network Management section has, in response to consultation, offered no objections to the proposed development and it is considered that the proposed access arrangements, site layout and levels of parking provided to serve the new and existing stores are appropriate. It is noted that the application site is well-connected and accessible both by private vehicle and public transport, with bus stops situated within particularly close proximity. The submitted plans also indicate the provision of two taxi drop off/pick up spaces to the east of the store entrance, cycle storage to the north of the entrance and two electric vehicle charging points to the east of the car park.

It is also noted that the proposed development would require the relocation of an existing bus stop and shelter on North Hylton Road and, as highlighted earlier in this report, Nexus has provided details of the cost and specification for new bus shelters; this together with a new pedestrian link across North Hylton Road has been deemed acceptable by Network Management and can be addressed through the requisite consent(s) under the Highways Act 1980.

Flood Risk and Drainage

Paragraph 103 of the NPPF states that when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere and should only consider development to be appropriate in flood-risk areas where certain criteria are satisfied.

Policies EN11 and EN12 of the UDP require appropriate protection measures to be incorporated in development proposals within areas at risk of flooding and require the LPA, in conjunction with the EA, to ensure that proposals would not impede the flow of flood water, increase the risk of flooding or adversely affect the quality or availability of ground or surface water.

The application site is situated within Flood Zone 1, so is at the lowest risk of flooding, and Table 2 of the Technical Guidance to the NPPF sets out that "building used for shops" is classified as "less vulnerable".

As Members may be aware, the City Council is now the Lead Local Flood Authority (LLFA) in respect of major development proposals, with responsibility for matters pertaining to the management of surface water. Guidelines produced by the Department for Environment, Food and Rural Affairs (DEFRA) essentially now require sustainable drainage systems (SuDS) to be provided in major development schemes wherever appropriate. This requirement is echoed by the Council's Local Flood Risk Management Strategy, which has recently been approved by Cabinet.

The application has been accompanied by a Flood Risk Assessment and Drainage Assessment and, further to concerns raised by the Council's Flood and Coastal Group Engineer, a revised Drainage Philosophy (Issue 002 dated 28.04.2016) which sets out that a surface water discharge rate of 25l/s would be achieved and permeable paving would be incorporated within the scheme of hard landscaping. The Flood and Coastal Group Engineer has inspected and confirmed his satisfaction of this revised Philosophy and requested that a condition be imposed, should Members be minded to grant planning permission, requiring full detailed surface water drainage calculations and drawings to be provided prior to the commencement of development.

Ground Conditions and Contamination

Paragraph 120 of the NPPF states that planning decisions must ensure, with regard to risks from pollution and land instability, that new development is appropriate for its location. Paragraph 121, meanwhile, requires planning decisions to ensure that the site is suitable for its new use, taking into account ground conditions and instability, including from natural hazards or former activities such as mining and pollution arising from previous uses.

Policy EN1 of the UDP seeks improvements to the environment by minimising all forms of pollution whilst policy EN12, as eluded to above, states that the Council, in conjunction with the Environment Agency and other interested parties, will seek to ensure that proposals would:

- (i) not be likely to impede materially the flow of flood water, or increase the risk of flooding elsewhere, or increase the number of people or properties at risk from flooding (including coastal flooding); and
- (ii) not adversely affect the quality or availability of ground or surface water, including rivers and other waters, or adversely affect fisheries or other water-based wildlife habitats.

In addition, policy EN14 dictates that, where development is proposed on land which there is reason to believe is either unstable or potentially unstable, contaminated or potentially at risk from migrating contaminants or potentially at risk from migrating landfill gas or mine gas, adequate investigations should be undertaken to determine the nature of ground conditions below and, if appropriate, adjoining the site. Where the degree of instability, contamination, or gas migration would allow development, subject to preventive, remedial, or precautionary measures within the control of the applicant, planning permission will be granted subject to conditions specifying the measures to be carried out.

The submitted Phase I Desk Study Report, Phase II Geo Environmental Report and Ground Investigation (by CC Geotechnical Ltd) have been inspected by the Council's Environmental Health section; it is noted that the conditions relating to contamination which were imposed on the previous aforementioned consents pertaining to this site have been discharged and such findings apply to the current site. In particular, the submitted documentation sets out that risk from contamination may be managed by:

- Excavating the made ground to a depth of 300mm below finished landscaping levels in all landscaped areas, restoring to finished level in clean imported subsoil / topsoil and placing geotextile at the base of the clean cover; and
- Specifying PE/AL/PE 'Protectaline' Water Mains and laying out mains in a remediated alignment.

The reports also set out investigating the location of former in ground tanks, however these tanks are situated to the east of the wider site of the previous applications and not within the extent of the current application site.

Upon compliance with such measures, and subject to conditions requiring the submission of a verification report and further investigation/remediation works should any unexpected contamination be encountered, Environmental Health has confirmed that risks of exposure to contaminants can be appropriately managed.

Ecology and Biodiversity

Paragraph 118 of the NPPF requires Local Planning Authorities to support the conservation and enhancement of biodiversity by refusing planning applications which will cause significant harm to biodiversity and SSSIs, unless the effects can be satisfactorily mitigated. Local Planning Authorities should also seek opportunities to incorporate biodiversity in and around new developments.

Policy CN19 of the UDP states that Special Areas of Conservation, Special Protection Areas and Ramsar sites will be conserved, and development will not be permitted unless it is directly connected with the designated site, it will not adversely affect the designated site or there are overriding reasons for the proposal and no alternative site is available. To this end, the application has been accompanied by a 'Habitats Regulations Assessment Screening Report', which seeks to determine whether the proposed development is likely to result in any harm being caused to the aforementioned European-designated sites along the Ryhope coast. In addition, UDP policy CN22 seeks to prevent development which will unacceptably affect a protected species and/or its habitat.

It is considered that there will be no significant effects from the development, either alone or in combination with other developments, upon the qualifying features of the Natura 2000 sites given the current land use, location and nature of the proposed development on the application site. The same conclusion is applicable to the Durham Coast SSSI qualifying features.

The Council's Natural Heritage section has reviewed the submitted Extended Phase 1 Habitat Report (December 2015) and both landscaping plans and confirmed that the ecological assessment is appropriate and provides the necessary mitigation and enhancement measures to enable the development to proceed as proposed. It is recommended that the recommendations for species mitigation during the construction phase be adopted, including the control of Cotoneaster on site, and the inclusion of species and habitat measures in the landscape detail (Ecological Mitigation) and operational phase of the site are considered to be an appropriate and very positive inclusion to the scheme.

Other Issues

It is also noted that the proposed development would bring about some wider benefits to the local area, in particular through the redevelopment of a vacant brownfield site, in accordance with UDP policy R2, the creation of additional jobs and affording local residents greater consumer choice.

The Town and Country Planning (Consultation) (England) Direction 2009 requires a Local Planning Authority to consult the Secretary of State before granting planning permission for retail development outside of town centres in circumstances set out at section 5(1) therein. Namely, in the event that the retail development is not in accordance with one or more provisions of the development plan and consists of or includes the provision of a building(s) where the floor space to be created is 5,000 square metres; or 2,500 square metres or more which, when aggregated

with other existing or proposed out-of-centre retail floor space within a 1km radius, would exceed 5,000 square metres.

The floor space of the subject building is just over 2,500 sq. metres, and whilst this is well below the threshold of 5,000 sq. metres, when combined with other existing out-of-town retail development and/or formally proposed or unimplemented extant planning approvals for retail uses within 1km of the current application site, in particularly the Sainsbury's store on the corner of Wessington Way and Castletown Way, it is considered that the referral threshold is exceeded and as such there is a requirement for the application to be referred to the Secretary of State.

Summary

For the reasons set out above, the proposal does not accord with the land-use allocation of the site nor fully with UDP shopping policies S1-S3 in that it would not support local centres and may have some adverse impact on their vitality and viability. However, the loss of employment land in this instance is considered to be acceptable and there is considered to be a deficiency in such shopping policies and, as such, more weight should be given to the up-to-date tests set out by paragraphs 26 and 27 of the NPPF. The application benefits, therefore, from the presumption in favour of sustainable development and should be permitted, unless:

- a) any adverse impacts of doing so, including cumulative impacts, would significantly and demonstrably outweigh the benefits; or
- b) specific policies in the Framework indicate that such development should be restricted (e.g. because of a breach of the provisions of Paragraph 27 of the NPPF).

It is considered that the proposal complies with the requirements of the sequential test set out in Paragraph 24 of the NPPF, even having applied the appropriate degree of flexibility, and there is no evidence to suggest that the proposal would cause a 'significant adverse' impact on existing, committed and planned investment in any of the centres within or beyond the application proposal's catchment area, the vitality and viability of any of the Local Centres within or immediately beyond the catchment area, consumer choice in any of these Local Centres or their overall trading levels. Therefore, the proposal is considered to comply with the tests set out by NPPF paragraphs 24, 26 and 27, particularly given that the 'fall-back' planning permission 11/00288/FUL, and its variants, is likely to have a greater impact on local centres.

It is not considered that the proposal would be detrimental to residential amenity, highway/pedestrian safety or the free passage of traffic, or the ecological value of the site whilst any risk of exposure to contaminants can be realistically managed. It is considered that the proposal would improve the appearance of the site given its existing and longstanding derelict state, to the benefit of the character and amenity of the local area, and the proposed drainage philosophy would improve the natural drainage of the site relative to its existing largely impermeable surfaced state. The other benefits set out above in respect of existing employment and consumer choice to local residents also weigh in favour of the proposal.

Accordingly, it is considered that the proposal, broadly, accords with the provisions of the development plan, having regard to the appropriate level of weight to be applied to its relevant policies, and in lieu of any material considerations to indicate otherwise, it is recommended that Members resolve to refer the application to the Secretary of State with the recommendation to approve, subject to the conditions set out below.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to:

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

RECOMMENDATION: The application be referred to the Secretary of State in accordance with the provisions of the Town and Country Planning (Consultation) (England) Direction 2009 (Circular 2/09) with the recommendation to approve subject to the conditions set out below.

Conditions:

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, to ensure that the development is carried out within a reasonable period of time.

2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

- Drawing no. A(00)GAP001 rev. 2: Proposed Ground Floor Plan
- Drawing no. A(00)GAP101 rev. 2: Proposed First Floor Plan
- Drawing no. A(00)GAE001 rev. 2: Proposed Elevations
- Drawing no. A(90)EXP001 rev. 1: Existing Site Layout
- Drawing no. A(90)EXP010 rev. 1: Site Location
- Drawing no. A(90)GAP002 rev. 7: Proposed Site Layout
- Drawing no. A(96)GAP001 rev. 2: Boundary Treatment Plan
- Carpark Lighting Layout received 27.04.2016

In order to ensure that the completed development accords with the approved scheme.

3 Notwithstanding any indication of materials which may have been given in the application, no development shall take place until a schedule and/or samples of the materials and finishes to be used for the external surfaces, including walls, roofs, doors and windows, has/have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details, in the interest of visual amenity and to comply with policy B2 of the adopted Unitary Development Plan.

4 No development shall commence until detailed plans of the existing and finished ground levels across the site and details of the finished slab levels of the foodstore have been submitted to and approved in writing by the Local Planning Authority, in the interest of visual amenity and to comply with policy B2 of the adopted Unitary Development Plan.

5 The premises shall not be operated for the purposes hereby approved other than between the hours of 07:00 and 22:00 on Mondays to Saturdays inclusive (except Bank Holidays) and 10:00 and 16:00 on Sundays and Bank Holidays, in order to protect the amenity of the area and nearby residents and to comply with policies B2 and EN5 of the adopted Unitary Development Plan.

6 No development shall take place until a scheme of working has been submitted to and approved, in writing, by the Local Planning Authority, which shall include details of the siting and organisation of any construction compound and site cabins, routes to and from the site for construction traffic, measures to ameliorate noise, dust and vibration, measures to contain construction dirt and debris within the site and hours of construction and the receipt of deliveries to the site for the entire duration of any excavation, demolition and/or construction works. The development shall thereafter proceed in full accordance with the agreed scheme, in the interests of the proper planning of the development and highway safety, to protect the amenity of adjacent

occupiers and to comply with policies B2, EC12, EC13 and T14 of the adopted Unitary Development Plan.

7 All planting, seeding or turfing comprised in the approved details of landscaping (drawing no. R/1823/1B received 27 April 2016) shall be carried out in the first planting season following the commencement of the use hereby approved or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size, species and location, unless the Local Planning Authority gives its written consent to any variation, in the interest of visual amenity and to comply with policies B2 and CN17 of the adopted Unitary Development Plan.

8 No development other than the site remediation works shall take place until full details of the management of foul and surface water, including a timetable for their implementation and a strategy for their maintenance, have been submitted to and approved, in writing, by the Local Planning Authority and the scheme shall be implemented in full accordance with the approved details, to ensure that satisfactory drainage is provided for the development to prevent the increased risk of flooding, to improve and protect water quality, habitat and amenity and to comply with paragraph 103 of the National Planning Policy Framework and policies EN12 and B24 of the adopted Unitary Development Plan.

9 Notwithstanding the submitted plans, the total sales area of the store hereby approved shall not exceed 1,424 square metres including, for the avoidance of doubt, any mezzanine floorspace, in order to protect the vitality and viability of nearby local centres and to comply with paragraph 26 of the National Planning Policy Framework and policies S1, S2 and S3 of the adopted Unitary Development Plan.

10 Notwithstanding the submitted plans, the comparison goods sales area within the new store shall not exceed 300 sq. metres and the convenience sales area shall not exceed 1,200 sq. m sales area, in order to protect the vitality and viability of nearby local centres and to comply with paragraph 26 of the National Planning Policy Framework and policies S1, S2 and S3 of the adopted Unitary Development Plan.

11 Before the development is commenced, final details of the external lighting to be installed in association with the approved development, including details of the lighting columns, shall be submitted to and approved, in writing by the Local Planning Authority, in order to protect the amenity of the area and to comply with policies B2 and EN1 of the adopted Unitary Development Plan.

12 The development hereby approved shall be carried out in complete accordance with the measures detailed in the Extended Phase 1 Habitat Survey Report prepared by WYG Environment Planning Transport Ltd dated December 2015 and drawing no. R/1823/1B received 27 April 2016 and maintained as such thereafter, in order to ensure the retention and enhancement of the recognised biodiversity of the site and to comply with policies CN18 and CN22 of the adopted Unitary Development Plan.

13 The development shall be carried out in accordance with the details provided by the submitted Phase II Geo Environmental Report and Ground Investigation (by CC Geotechnical Ltd) and, in particular, including excavating the made ground to a depth of 300mm below finished landscaping levels in all landscaped areas, restoring to finished level in clean imported subsoil / topsoil and placing geotextile at the base of the clean cover and specifying PE/AL/PE 'Protectaline' Water Mains and laying out mains in a remediated alignment, in order to manage

the risk of exposure to contaminants and to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.

14 The development shall not be brought into use until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved, in order to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.

15 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until a remediation strategy has been submitted to and approved, in writing, by the Local Planning Authority detailing with how this unsuspected contamination shall be dealt. The remediation strategy shall then be implemented in accordance with the approved details, in order to comply with the requirements of paragraph 109 of the National Planning Policy Framework and policy EN14 of the adopted Unitary Development Plan.

16 The development hereby approved shall not be brought into use until details of the provision of secure storage for bicycles have been submitted to and approved, in writing, by the Local Planning Authority and such facilities have been fully installed in accordance with the approved details, which shall be appropriately maintained thereafter, in order to promote a sustainable mode of transportation and to comply with paragraph 75 of the National Planning Policy Framework and policy T9 of the adopted Unitary Development Plan.

ITEMS FOR INFORMATION

LIST OF OTHER APPLICATIONS CURRENTLY ON HAND BUT NOT REPORTED ON THIS AGENDA WHICH WILL BE REPORTED WITH A RECOMMENDATION AT A FUTURE MEETING OF THE SUB COMMITTEE

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
16/00522/LP3	Commercial Development Directorate	Change of use from car park to public convenience and the erection of a single storey public convenience block with associated landscaping (revised description 14.4.2016).	06/04/2016	01/06/2016
St Peters	Car Park Pier View/Marine Walk Sunderland			
16/00825/FUL	Sunderland Accommodation Services	Change of use from single dwelling to 9-bedroom house in multiple occupation (amended description 24/05/2016).	13/05/2016	08/07/2016
St Peters	55 Roker Avenue Sunderland SR6 0HT			

Application Ref and Ward	Applicant and Address	Proposal	Date Valid	Determination Date
15/02379/FUL	Mr R Wooler	Demolition of existing building and erection of five storey student accommodation, to provide 75 student bedrooms.	21/01/2016	21/04/2016
St Peters	Former Speedings Sailworks15 Whickham StreetMonkwearmouth SunderlandSR6 0ED			